

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

CustomInk, LLC

Plaintiff,

v.

ooShirts, Inc.

Defendant.

Civil Action No. 1:12-cv-00576-GBL-JFA

ANSWER

Defendant ooShirts, Inc. (“ooShirts”), by and through its undersigned counsel, answers the Complaint filed on May 25, 2012 as follows:

INTRODUCTION

1. ooShirts is without knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

2. ooShirts is without knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

3. ooShirts denies the allegations of this paragraph.

4. ooShirts denies the allegations of this paragraph.

5. ooShirts denies the allegations of this paragraph.

6. ooShirts denies the allegations of this paragraph.

7. ooShirts denies the allegations of this paragraph.

8. ooShirts denies the allegations of this paragraph.

9. ooShirts denies the allegations of this paragraph.

10. ooShirts denies the allegations of this paragraph.

11. ooShirts denies the allegations of this paragraph.

JURISDICTION AND VENUE

12. ooShirts denies that this Court has subject matter jurisdiction over all of the claims in this Action.

13. ooShirts denies that venue is proper in this district.

PARTIES

14. ooShirts is without knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

15. ooShirts admits the allegations of this paragraph.

FACTUAL ALLEGATIONS

16. ooShirts is without knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

17. ooShirts is without knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

18. ooShirts admits that it operates the website at <http://www.ooshirts.com>. ooShirts denies any remaining allegations of this paragraph.

19. ooShirts denies the allegations of this paragraph.

20. ooShirts denies the allegations of this paragraph.

21. ooShirts denies the allegations of this paragraph.

22. ooShirts denies the allegations of this paragraph.

23. ooShirts admits that CustomInk did not give ooShirts any express permission. ooShirts denies the remaining allegations of this paragraph.

24. ooShirts denies the allegations of this paragraph.

25. ooShirts denies the allegations of this paragraph.

26. ooShirts denies the allegations of this paragraph.

27. ooShirts denies the allegations of this paragraph.

28. ooShirts denies the allegations of this paragraph.

COUNT I

29. This paragraph consists of an incorporation by reference, to which no response is required. To the extent a response is deemed required, ooShirts denies the allegations of this paragraph.

30. ooShirts is without knowledge or information sufficient to admit or deny the allegations of this paragraph, and on that basis denies them.

31. ooShirts denies the allegations of this paragraph.

32. ooShirts denies the allegations of this paragraph.

33. ooShirts denies the allegations of this paragraph.

34. ooShirts denies the allegations of this paragraph.

35. ooShirts denies the allegations of this paragraph.

COUNT II

36. This paragraph consists of an incorporation by reference, to which no response is required. To the extent a response is deemed required, ooShirts denies the allegations of this paragraph.

37. ooShirts denies the allegations of this paragraph.

38. ooShirts denies the allegations of this paragraph.

39. ooShirts denies the allegations of this paragraph.

40. ooShirts denies the allegations of this paragraph.

41. ooShirts denies the allegations of this paragraph.

42. ooShirts is without knowledge or information sufficient to admit or deny the

allegations of this paragraph, and on that basis denies them.

43. ooShirts denies the allegations of this paragraph.

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51. ooShirts denies the allegations of this paragraph.

52. ooShirts denies the allegations of this paragraph.

53. ooShirts denies the allegations of this paragraph.

54. ooShirts denies the allegations of this paragraph.

COUNT III

55. This paragraph consists of an incorporation by reference, to which no response is required. To the extent a response is deemed required, ooShirts denies the allegations of this paragraph.

56. ooShirts denies the allegations of this paragraph.

57. ooShirts denies the allegations of this paragraph.

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72. ooShirts denies the allegations of this paragraph.

73. ooShirts denies the allegations of this paragraph.

74. ooShirts denies the allegations of this paragraph.

75. ooShirts denies the allegations of this paragraph.

COUNT IV

76. This paragraph consists of an incorporation by reference, to which no response is required. To the extent a response is deemed required, ooShirts denies the allegations of this paragraph.

77. ooShirts denies the allegations of this paragraph.

78. ooShirts denies the allegations of this paragraph.

79. ooShirts denies the allegations of this paragraph.

80. ooShirts denies the allegations of this paragraph.

81. ooShirts denies the allegations of this paragraph.

PRAYER FOR RELIEF

82. In response to CustomInk's Prayer for Relief, ooShirts states that CustomInk is

not entitled to the requested relief, or to any relief whatsoever.

JURY DEMAND

83. ooShirts hereby demands a trial by jury on all issues so triable.

DEFENSES

By way of further Answer and as its defenses, ooShirts denies that it is liable to CustomInk on any of the claims alleged and denies that Plaintiff is entitled to any relief whatsoever, and states as follows. ooShirts' investigation of its defenses is ongoing, and ooShirts reserves the right to present other or further defenses.

FIRST DEFENSE

The Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

CustomInk lacks standing to bring one or more claims set forth in the Complaint.

THIRD DEFENSE

CustomInk's copyright claims are barred or limited by the copyright fair use doctrine.

FOURTH DEFENSE

CustomInk's trademark claims are barred, in whole or in part, by the doctrines of trademark fair use, nominative fair use, and/or descriptive use.

FIFTH DEFENSE

CustomInk's claims are barred, in whole or in part, because any infringement was innocent.

SIXTH DEFENSE

Some or all of CustomInk's works or portions thereof are not original.

SEVENTH DEFENSE

Some or all of CustomInk's works or portions thereof are in the public domain.

EIGHTH DEFENSE

Some or all of CustomInk's claims are barred by the merger doctrine or the idea/expression dichotomy, or consist of subject matter which is otherwise not protectable by copyright.

NINTH DEFENSE

Some or all of CustomInk's claims are barred or limited by the doctrines of waiver, estoppel, laches, or acquiescence, or by the applicable statute of limitations.

TENTH DEFENSE

Some or all of CustomInk's claims are barred or limited by CustomInk's failure to mitigate damages, if such damages exist.

ELEVENTH DEFENSE

Some or all of CustomInk's claims are barred by the First Amendment to the United States Constitution.

TWELFTH DEFENSE

Some or all of CustomInk's claims are barred because ooShirts had an express or implied license.

WHEREFORE, ooShirts prays for judgment as follows:

- a. That CustomInk take nothing by its Complaint;
- b. That the Complaint be dismissed with prejudice;
- c. That ooShirts be awarded costs of suit incurred herein, including attorneys' fees and expenses; and
- d. For such other and further relief as the Court deems just and proper.

Dated: July 11, 2012

/s/

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Counsel for Defendant ooShirts, Inc.

CERTIFICATE OF SERVICE

I certify that on this 11th day of July, 2012, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing to all counsel of record.

/s/
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